

CONFORMED COPY

TRUST FUND GRANT NUMBER TF056541

Global Partnership on Output-based Aid Grant Agreement

(Colombia Access to Natural Gas Project)

among

**FUNDACIÓN PROMIGAS
GASES DEL CARIBE S.A. E.S.P.
SURTIGAS S.A. E.S.P.
GASES DE LA GUAJIRA S.A. E.S.P.
GASES DE OCCIDENTE S.A. E.S.P**

and

**INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT**

acting as Administrator of the Global Partnership on Output-based Aid

Dated May 19, 2006

TRUST FUND GRANT NUMBER TF056541

**GLOBAL PARTNERSHIP ON OUTPUT-BASED AID
GRANT AGREEMENT**

AGREEMENT dated May 19, 2006, entered into among FUNDACIÓN PROMIGAS (“Fiduciary Agent”), GASES DEL CARIBE S.A. E.S.P., SURTIGAS S.A. E.S.P., GASES DE LA GUAJIRA S.A. E.S.P., GASES DE OCCIDENTE S.A. E.S.P (“Recipients”) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (“World Bank”), acting as administrator of the Global Partnership on Output-based Aid Fund (“Grant Agreement”). The Recipients, the Fiduciary Agent and the World Bank hereby agree as follows:

ARTICLE I

Standard Conditions; Definitions

- 1.01. The Standard Conditions (as defined in the Appendix to this Agreement) constitute an integral part of this Agreement. References in the Standard Conditions to the “Recipient” shall be deemed as references to the Recipients (for Part 1 of the Project) and the Fiduciary Agent (for Part 2 of the Project).
- 1.02. Unless the context requires otherwise, the capitalized terms used in the Grant Agreement have the meanings ascribed to them in the Standard Conditions and in the preamble and the Appendix to this Agreement.

ARTICLE II

The Project

- 2.01. The Recipients and the Fiduciary Agent declare their commitment to the objective of the project described in Schedule 1 to this Agreement (“Project”). To this end, the Recipients shall carry out Part 1 of the Project and the Fiduciary Agent shall carry out Part 2 of the Project in accordance with the provisions of Article II of the Standard Conditions.
- 2.02. Without limitation upon the provisions of Section 2.01 of this Agreement, and except as the Recipients, the Fiduciary Agent and the World Bank shall otherwise agree, the Recipients and the Fiduciary Agent shall ensure that the Project is carried out in accordance with the provisions of Schedule 2 to this Agreement.

ARTICLE III

The Grant

- 3.01. The World Bank agrees to extend to the Recipients and the Fiduciary Agent, on the terms and conditions set forth or referred to in this Agreement, a grant in an amount equal to five million eighty-five thousand Dollars (USD 5,085,000) (“Grant”) to assist in financing the Project.
- 3.02. The Fiduciary Agent may, on its own behalf and that of the Recipients, withdraw the proceeds of the Grant in accordance with Section IV of Schedule 2 to this Agreement.

ARTICLE IV

Remedies of the World Bank

- 4.01. The Additional Event of Suspension referred to in Section 4.02 (i) of the Standard Conditions, consists of the following:
 - (a) Ineligibility. IBRD or IDA has declared the Recipients or the Fiduciary Agent ineligible to be awarded a contract financed by IBRD or IDA.

ARTICLE V

Effectiveness; Termination

- 5.01. The Grant Agreement shall become effective upon its execution by all parties to the Grant Agreement.

ARTICLE VI

Representatives; Addresses

- 6.01. The following Representatives are specified for the purposes of Section 6.03 of the Standard Conditions:

For the Recipients: Ramón Dávila, Luis Guillermo Otoya, Rolland Pinedo Daza and Magin Ortega Pareja

For the Fiduciary Agent: Lucia Ruiz

6.02. The following addresses are specified for purposes of Section 6.02 of the Standard Conditions:

For the Recipients:

Mr. Ramón Dávila
Gerente General
Representante Legal
Gases del Caribe S.A. E.S.P.
K 54 No. 59-144
Barranquilla
Republic of Colombia
Facsimile: (57-5) 3441348; Telephone: (57-5) 3441960

Mr. Luis Guillermo Otoyá
Gerente General
Representante Legal
Surtigas S.A. E.S.P.
Avenida Pedro de Heredia (Sector Armenia)
Calle 31 No. 47-30
Cartagena
Republic of Colombia
Facsimile: (57-59) 6627766; Telephone: (57-59) 6625420

Mr. Rolland Pinedo Daza
Gerente
Representante Legal
Gases de la Guajira S.A. E.S.P.
Carrera 15 No. 14C-33
Riohacha
Republic of Colombia
Facsimile: (57-5) 273343; Telephone: (51-5) 273464

Mr. Magin Ortega Pareja
Gerente
Representante Legal
Gases de Occidente S.A. E.S.P.
Centro Comercial Chipichape Bodega 2 P-4
Cali
Republic of Colombia
Facsimile: (51-2) 4187345; Telephone: (57-2) 4187305

For the Fiduciary Agent:

Ms. Lucia Ruiz
Directora Ejecutiva
Representante Legal
Fundación Promigas
Calle 66 No. 67-123
Barranquilla
Republic of Colombia
Facsimile: (57-5) 37133333 ext. 289; Telephone: (57-5) 3713289

For the World Bank:

International Bank for
Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

Cable Address:	Telex:	Facsimile:
INTBAFRAD Washington, D.C.	248423 (MCI) or 64145 (MCI)	1-202-477-6391

AGREED at the District of Columbia, United States of America, as of the day and year first above written.

FUNDACIÓN PROMIGAS

By /s/ Lucia Ruiz

Authorized Representative

GASES DEL CARIBE S.A. E.S.P.

By /s/ Ramón Dávila

Authorized Representative

SURTIGAS S.A. E.S.P.

By /s/ Luis Guillermo Otoyá

Authorized Representative

GASES DE LA GUAJIRA S.A. E.S.P.

By /s/ Rolland Pinedo Daza

Authorized Representative

GASES DE OCCIDENTE S.A. E.S.P.

By /s/ Magin Ortega Pareja

Authorized Representative

INTERNATIONAL BANK FOR
RECONSTRUCTION AND DEVELOPMENT
as Administrator of the Global Partnership on Output-based Aid

By /s/ Isabel Guerrero

Authorized Representative

SCHEDULE 1

Project Description

The objective of the Project is to assist in the connection by the Recipients of about 35,000 Beneficiary Households to the natural gas distribution network in the territory of the Republic of Colombia.

The Project consists of the following parts:

Part 1: Promotion and Establishment of New Natural Gas Service Connections

- (a) Marketing of the natural gas connections to eligible Beneficiary Households, including carrying out of at least one public stakeholder consultation event by each Recipient.
- (b) Installing of natural gas connections for about 35,000 Beneficiary Households.

Part 2: Project Management, Monitoring and Evaluation

- (a) Coordination of the allocation of Grant funds among the Recipients by soliciting quarterly projections of connections to be made, and on this basis, making tentative projections of fund allocation for planning purposes.
- (b) Consolidation and processing for payment of withdrawal applications, based on Stratification Certificates, Technical Certificates and Installation of Connection Certificates as held by the Recipients.
- (c) Carrying out of audits and of monitoring and evaluation activities to assess the progress and performance in the implementation of the Project, including: (i) a semi-annual assessment of progress of works under Part 1 of the Project; and (ii) spot checks on connections made under Part 1 of the Project.

SCHEDULE 2

Project Execution

Section I. Institutional and Other Arrangements

A. Implementation Arrangements

1. (a) The Recipients and the Fiduciary Agent have adopted the Project operational manual dated May 12, 2006 (the Operational Manual), satisfactory in form and substance to the World Bank, which includes, *inter alia*:
 - (i) the detailed description of project implementation and activities, including: (A) their sequencing and the prospective timetable and benchmarks in relation thereto; (B) the institutional arrangements in respect thereof, including the allocation of duties between the Recipients and the Fiduciary Agent; and (C) the terms and conditions for their respective participation and all related procedures;
 - (ii) the Project's administrative, accounting, financial, disbursement and procurement procedures and associated standard documents and model contracts in relation thereto;
 - (iii) the Environmental and Social Corrective Action Plan setting forth the guidelines for mitigating potential harmful effects of Project implementation;
 - (iv) the eligibility criteria for the Beneficiary Households;
 - (v) the criteria applicable to the new natural gas connections to be installed by the Recipients for the benefit of Beneficiary Households and subject, upon verification of the satisfaction of those criteria, to financing out of Grant proceeds, including model forms for the Stratification Certificate, the Technical Certificate and the Installation of Connection Certificate;
 - (vi) the plan for the monitoring and supervision of the Project, including all environmental and social aspects in relation thereto; and
 - (vii) the performance indicators for the Project.
- (b) The Recipients and the Fiduciary Agent shall carry out the Project in accordance with the Operational Manual.
2. In the event that any provision of the Operational Manual shall conflict with any one under this Agreement, the terms of this Agreement shall prevail.

3. The Recipients and the Fiduciary Agent may amend the Operational Manual from time to time only with the World Bank's prior written consent.
4. The Recipients shall:
 - (a) furnish to the Fiduciary Agent quarterly projections for the scope of subsidized connections for their respective service area, including a breakdown of Beneficiary Households according to income strata;
 - (b) collect and retain for subsequent audit a Stratification Certificate for each Beneficiary Household to be connected;
 - (c) install the natural gas connections for the eligible Beneficiary Households, in accordance with the criteria set forth in the Operational Manual;
 - (d) collect and retain for subsequent audit an Installation of Connection Certificate for each Beneficiary Household upon installation of a connection;
 - (e) issue and retain for subsequent audit a Technical Certificate upon installation of a new connection;
 - (f) provide services to the connected Beneficiary Households in accordance with the applicable regulatory provisions upon installation of a new connection;
 - (g) furnish to the Fiduciary Agent a written confirmation for each new connection of the collection of (i) the corresponding Stratification Certificates; (ii) the corresponding Installation of Connection Certificates; (iii) the corresponding Technical Certificates; and (iv) the billing records for three months, providing evidence of actual use of the new connection;
 - (h) submit requests for applications for withdrawal to the Fiduciary Agent for new connections; and
 - (i) each maintain its own administrative unit responsible for financial and budget management, reporting and accounting.
5. The Fiduciary Agent shall:
 - (a) oversee and coordinate compliance with the provisions of this Agreement;
 - (b) coordinate, on the basis of the quarterly projections submitted by the Recipients, the allocation of Grant funds among the Recipients and communicate to the Recipients their projected quarterly allocation of the Grant proceeds no later than 60 days before the end of the preceding quarter;

- (c) make semi-annual withdrawal applications to the World Bank on behalf of the Recipients, based on the number of new connections made and the corresponding (i) requests for withdrawal applications referred to in paragraph 4 (h) above; (ii) Stratification Certificates; (iii) Installation of Connection Certificates; (iv) Technical Certificates; and (v) billing records for three months; and
 - (d) share with the World Bank, for information and tracking purposes the connection projections as submitted by the Recipients and the projected quarterly allocations no later than 60 days before the end of the preceding quarter.
6. Not later than 3 months after the date of this Agreement, the Fiduciary Agent shall appoint independent auditors, subject to prior approval of the World Bank, to carry out:
- (a) annual financial audits in respect of the Project, in accordance with the provisions of Section II.B.3 of this Schedule, including the verification of expenditures made in respect of the Project and the rate and status of the disbursements made in respect of the Project; and
 - (b) semi-annual technical audits of completed new natural gas connections of the: (i) number of such connections made, including the verification of corresponding Stratification Certificates, Installation of Connection Certificates and Technical Certificates; (ii) number of Beneficiary Households benefiting from the said new connections; and (iii) value of contributions made by Beneficiary Households in respect of their new connections.

Section II. Project Monitoring, Reporting, Evaluation

A. Project Reports

1. The Fiduciary Agent shall monitor and evaluate or cause to be monitored and evaluated the progress of the Project and prepare Project Reports in accordance with the provisions of Section 2.06 of the Standard Conditions and on the basis of the performance indicators set forth in the Operational Manual. Each Project Report shall cover the period of one calendar semester, and shall be furnished to the World Bank, DNP and *Acción Social* not later than forty-five days after the end of each calendar semester.
2. The Fiduciary Agent shall prepare the Recipient's Completion Report pursuant to Section 2.06 (d) of the Standard Conditions no later than six months after the Closing Date. In addition, the Fiduciary Agent shall prepare two additional reports ("Post Project Reports"), each in such scope and in such detail as the World Bank shall reasonably request, on the execution of the plan set out in the Implementation Completion Report, and setting out measures designed to ensure the continued efficient and effective achievement of the Project's objectives. The Fiduciary Agent shall furnish the Post-Project Reports to the World Bank no later than one month after the first and second anniversaries of the Closing Date, respectively.

B. Financial Management, Financial Reports and Audits

1. The Recipients and the Fiduciary Agent shall maintain or cause to be maintained a financial management system in accordance with the provisions of Section 2.07 of the Standard Conditions.
2. Without limitation on the provisions of Part A of this Section, the Recipients and the Fiduciary Agent shall prepare and furnish to the World Bank as part of the Project Report not later than forty-five days after the end of each calendar semester, interim un-audited financial reports for the Project covering the semester, in form and substance satisfactory to the World Bank.
3. The Recipients and the Fiduciary Agent shall have their Financial Statements for the Project audited, in accordance with the provisions of Section 2.07 (b) of the Standard Conditions. Each audit of the Financial Statements shall cover the period of one fiscal year of the Recipients and the Fiduciary Agent. The audited Financial Statements for each such period shall be furnished to the World Bank not later than six months after the end of such period. Said audits shall also include the review referred to in Section III.D of this Schedule 2.

Section III. Procurement

A. General

1. **Goods and Works.** All goods and works required for the Project and to be financed out of the proceeds of the Grant shall be procured in accordance with the requirements set forth or referred to in Section I of the Procurement Guidelines, and with the provisions of this Schedule.
2. **Consultants' Services.** All consultants' services required for the Project and to be financed out of the proceeds of the Grant shall be procured in accordance with the requirements set forth or referred to in Sections I and IV of the Consultant Guidelines, and with the provisions of this Schedule.
3. **Definitions.** The capitalized terms used below in this Section to describe particular procurement methods or methods of review by the World Bank of particular contracts, refer to the corresponding method described in the Procurement Guidelines, or Consultant Guidelines, as the case may be.

B. Particular Methods of Procurement of Goods and Works

1. **Methods of Procurement of Goods and Works.** The following table specifies the methods of procurement which may be used for goods and works required to enable the connections referred to in Part 1(b) of the Project.

Procurement Method
(a) Standard practices of each Recipient which have been found acceptable to the Bank, for goods and works procured by such Recipient under Part 1 (b) of the Project (see Bank Operational Memorandum on the Application of Paragraph 3.13 of the Procurement Guidelines to Cases Involving Incumbent Concessionaires, November 7, 2005).

C. Particular Methods of Procurement of Consultants’ Services

1. **Quality- and Cost-based Selection.** Consultants’ services required for Part 2 of the Project shall be procured under contracts awarded on the basis of Quality and Cost-based Selection.
2. **Other Methods of Procurement of Consultants’ Services.** The following table specifies the methods of procurement which may be used for consultants’ services to enable the connections referred to in Part 1(b) of the Project.

Procurement Method
(a) Standard practices of each Recipient which have been found acceptable to the Bank, for consultants’ services procured by the Recipients under Part 1(b) of the Project.

D. Review by the World Bank of Procurement Decisions

1. All contracts financed in whole or in part by the Grant shall be subject to Post Review by the World Bank as part of the audits referred to in Section II.B of this Schedule 2.

Section IV. Withdrawal of the Proceeds of the Grant

A. General

1. The Fiduciary Agent, on its own behalf and that of the Recipients, may withdraw the proceeds of the Grant in accordance with the provisions of Article III of the Standard Conditions and of this Section and such additional instructions as the World Bank shall specify by notice to the Recipients and the Fiduciary Agent.

2. The following table specifies the categories of Eligible Expenditures that may be financed out of the proceeds of the Grant (“Category”), the allocations of the amounts of the Grant to each Category, and the percentage of expenditures to be financed for Eligible Expenditures in each Category:

<u>Category</u>	<u>Amount of the Grant Allocated (expressed in USD)</u>	<u>Percentage of Expenditures to be Financed</u>
(1) Payments for natural gas connections for Beneficiary Households under Part 1(b) of the Project, at a rate of USD 141 equivalent per connection	4,935,000	100%
(2) Services under Part 2 of the Project	<u>150,000</u>	100 %
TOTAL AMOUNT	<u>5,085,000</u>	

B. Withdrawal Conditions; Withdrawal Period

1. Notwithstanding the provisions of Part A of this Section no withdrawal shall be made for payments made prior to the date of this Agreement.
2. The Closing Date referred to in Section 3.06 (c) of the Standard Conditions is March 31, 2008.

APPENDIX**Section I. Definitions**

1. “*Acción Social*” means *Agencia Presidencial para la Acción Social y la Cooperación Internacional*, the Republic of Colombia’s Presidential Agency for Social Action and International Cooperation.
2. “Beneficiary Household” means a household pertaining to income stratum 1 or 2 in any of the Selected Departments under the Project, as further determined by the local municipalities according to the rules issued by DNP, and in accordance with the Operational Manual.
3. “Category” means a category set forth in the table in Section IV of Schedule 2 to this Agreement.
4. “Consultant Guidelines” means the “Guidelines: Selection and Employment of Consultants by World Bank Borrowers” published by the World Bank in May 2004.
5. “DNP” means *Departamento Nacional de Planeación*, the Republic of Colombia’s National Planning Department.
6. “Dollar”, “\$” and “USD” each means the lawful currency of the United States of America.
7. “Environmental and Social Corrective Action Plan” means the plan referred to in Section I.A.1. (a) (iii) of Schedule 2 to this Agreement, satisfactory to the World Bank, adopted by the Recipients and the Fiduciary Agent and submitted to the World Bank on April 5, 2006, setting forth measures to mitigate any adverse impacts to the environment.
8. “Installation of Connection Certificate” means the signed and dated letter collected from each Beneficiary Household upon installation of a new natural gas connection, indicating the household’s acceptance of the connection subsidy and the discount to the connection fee in the amount of the subsidy payment.
9. “Operational Manual” means the comprehensive manual referred to in Section I.A.1 of Schedule 2 to this Agreement.
10. “Procurement Guidelines” means the “Guidelines for Procurement under IBRD Loans and IDA Credits” published by the World Bank in May 2004.
11. “Selected Departments” means the departments of *Atlántico, Magdalena, Bolívar, Sucre, Córdoba, Valle del Cauca* and *La Guajira* in the territory of the Republic of Colombia where Project implementation is intended to take place in accordance with the Operational Manual.

12. “Standard Conditions” means the “Standard Conditions for Grants made by the World Bank as Administrator of the Global Partnership on Output-based Aid” dated March 22, 2006.
13. “Stratification Certificate” means the written confirmation by the local municipalities that a household is an eligible Beneficiary Household according to the rules issued by DNP, and in accordance with the Operational Manual.
14. “Technical Certificate” or *Formulario de Verificación, Diseño y Certificación de Instalaciones Internas* means the document issued by the Recipients through their *Unidades Técnicas de Inspección*, certifying that a new natural gas connection meets the technical rules and regulations applicable to the natural gas sector in the Republic of Colombia.

Section II. Modifications to the Standard Conditions

The modifications to the “Standard Conditions for Grants made by the World Bank as Administrator of the Global Partnership on Output-based Aid” dated March 22, 2006 are as follows:

1. The provisions of Section 5.03, *Arbitration*, are deleted in their entirety and replaced by the following:

“Section 5.03. *Arbitration*. Any dispute, controversy, or claim arising out of or relating to the Grant Agreement, which has not been settled by agreement of the parties, shall be submitted to arbitration in accordance with the UNCITRAL Arbitration Rules in effect on the date of the Grant Agreement, and the following provisions:

 - (a) the appointing authority shall be the Secretary-General of the Permanent Court of Arbitration;
 - (b) the place of arbitration shall be determined by the World Bank, after consultation with the Recipient; and
 - (c) the language of the arbitral proceedings shall be English.”